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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,881	11/21/2000	Phillip A. White	001020	9771

7590 12/31/2003

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EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/717,881

Applicant(s)

WHITE, PHILLIP A.

Examiner

Yogesh C Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 5. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4, 11, and 14 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 2, 9, and 12 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.1. Claims 1, 5, 6, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane et al. (US Patent 6,434,530 B1), hereinafter, referred to as Sloane and further in view of Sloane ( US Patent 5,918,211), hereinafter, referred to as Sloane II.

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**Regarding claim 1**, Sloane discloses a product purchase decision making device (see at least col.2, line 43-col.3, line 12, " ". Note: " interactive, mobile apparatus" in Sloane corresponds to the claimed device in the application. Also see FIG.2, " 20" the interactive apparatus shown there corresponds to the claimed device) comprising:

means for inputting product identification information (see at least col.9, lines 43-63, "*..A top plan of a mobile interactive apparatus 20 is shown in FIG. 2. .... The apparatus 20 .....comprises a display screen 202 ..... Display screen 202 can be provided with a touch screen overly 264, enabling the screen to be a further input device. The array of buttons 204 includes a plus (+) button 206, a minus (-) button 208 and an equals (=) button 210. These buttons can be used, for example, in conjunction with a bar code scanner 218 to update and revise the electronic list of articles selected and scanned for purchase as such articles are placed into the shopper's shopping cart. ....*" . Also see col.5, lines 8-20, FIG.1 and col.14, lines 28-33, "*.....shopper can use the scanner to read the Universal Product Code [UPC] bar codes of the products they are interested in...*".. Note: the bar code scanner in Sloane is the means for inputting information.) ;

means for accessing a product information source (see at least col.5, lines 8-20, "*.... Each mobile apparatus 20 is controlled by a base station 40, which can itself be controlled by a control center 50. The system 10 is adapted for use with a point of sale (POS) system 60. "*, and col.6, lines 29-56, "*The base station 40 is provided with a wireless transceiver 408 having an antenna 410. The base station can communicate with the wireless transceiver 408 through a communications link 18. The wireless transceiver 408 can communicate with a help desk station 80 through a communications link 82. Different frequencies can be used to communicate with respective*

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*apparatus 10, or other multiplexing data transmission schemes can be employed. ....In the context of food, for example, supplemental data base 404 can include nutritional and dietary information for all of the articles in the items and prices data base 602, enabling shoppers to be guided in their purchases based on this information, as well as price information. As will be explained in detail hereinafter, shoppers can use the apparatus 20 to submit queries to the base station while shopping and to receive answers to the queries from the base station. The queries and answers can be submitted and received by using a display screen, buttons and a touch screen overlay. ....* ". Note: The interactive shopping system 10 as shown in FIG.1 includes the interactive mobile apparatus 20 which combined with the communications network 608, wireless transceiver 408 and communications links 18 and 82 are the means for accessing a product information source such as POS 60 and databases of Items and prices 602, 604.);

means for receiving product information based on said product identification information (see at least col.5, lines 8-20, "*An interactive shopping system 10 is shown in block and diagrammatic form in FIG. 1. The system 10 comprises a plurality of mobile interactive apparatus 20 adapted for use throughout a shopping venue 30. .... Each mobile apparatus 20 is controlled by a base station 40, which can itself be controlled by a control center 50. The system 10 is adapted for use with a point of sale (POS) system 60.* ", and col.6, lines 29-56, "*The base station 40 is provided with a wireless transceiver 408 having an antenna 410. The base station can communicate with the wireless transceiver 408 through a communications link 18. The wireless transceiver 408 can communicate with a help desk station 80 through a communications link 82. Different frequencies can be used to communicate with respective apparatus 10, or other multiplexing data transmission schemes can be employed. ....In the context of food, for example, supplemental data base 404 can include nutritional and dietary information for all of the articles in the items and prices data base 602, enabling shoppers to be guided in their purchases based on this information, as well as price information. As will be explained in detail hereinafter, shoppers can use the apparatus 20 to submit*

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*queries to the base station while shopping and to receive answers to the queries from the base station. The queries and answers can be submitted and received by using a display screen, buttons and a touch screen overlay. ....* ". Note: The interactive shopping system 10 as shown in FIG. 1 includes the interactive mobile apparatus 20 which combined with the communications network 608, wireless transceiver 408 and communications links 18 and 82 are the means for receiving a product information source such as POS 60 and databases of Items and prices 404, 602, 604 ).

Sloane does not disclose means for indicating to a user product purchase decision. This is a "means for " limitation and invokes 35 U.S.C. 112, 6<sup>th</sup> paragraph. The means for indicating to a user product purchase are indicator lights as described in the specification. Sloane discloses that the mobile apparatus 20, which corresponds to the claimed device in the application, includes an array of indicator lights (see at least col.11, lines 19-25, "*The apparatus can be provided with an array 266 of output indicators, for example, light emitting diodes, indicators 268 and 270.....the button array, the indicator lights* "). Sloane does not expressly disclose that these indicator lights are used as means to indicate a product purchase decision to a user.

However, Sloane II, in the same field of endeavor, does teach use of the indicator lights to indicate a product purchase decision to a user (see at least col. 6, lines 39-44, "... **Portable bar code scanner 20 includes indicator lights 36a-36c** for indicating to the consumer the occurrence of certain events, such as, for example, ready to scan, a discount being offered, a product promotion, or any other message or event that the retailer/manufacturee feels is necessary to alert the consumer ". Also, see col.10, lines 35-37 and col.12, lines 34-38.

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Note: The Portable bar code scanner 20 in Sloane II corresponds to the "device" as claimed. Further, the use of indicator lights to indicate a warning, product discounts and promotions correspond to the means for indicating to a user a product purchase decision, as claimed, because a warning light indicator would stop the user from buying, a product discount indicator light would motivate the buyer to go ahead with the buying decision and a promotion indicator light cautions the buyer that a new product is being promoted and as such he may try to know more about it.).

In view of Sloane II, it would have been obvious to a person of an ordinary skill in the art at the time of the invention of the applicant to have modified Sloane to incorporate the feature of using indicator lights to indicate a purchase decision to a user because using different colored lights, as being done in guiding the traffic with green, red and yellow lights, it would be very familiar and striking to the users to convey decisions rapidly to go ahead with the indicated purchase decision, to go ahead with the purchasing decision with caution, and to take a decision to stop buying.

Thus the prior art of Sloane in view of Sloane II performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the specification (See: *Kemco Sales, Inc. v. Control Papers Co.*, 54 USPQ2d 1308, 1315 (Fed. Cir. 2000); *Odetics, Inc. v. Storage Tech. Corp.*, 185 F.3d 1259, 1267, 51 USPQ2d 1225, 1229-30 (Fed. Cir. 1999)).

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**Regarding claim 5**, Sloane in view of Sloane II as applied to claim 1 discloses a product purchase decision-making device as analyzed above. Sloane also discloses means for displaying received product information (see at least col.9, lines 51-52, "*Display screen 202 can, for example, be an LCD or TFT panel.* ").

**Regarding claim 6**, Sloane in view of Sloane II as applied to claim 1 discloses a product purchase decision-making device as analyzed above. Sloane also discloses that the device comprises one of a personal digital assistant, laptop computer, handheld computer, palmtop computer or a cellular phone ( see at least col.12, lines 1-5, "*A functional block diagram of the apparatus 20 is shown in FIG. 3. .... the apparatus can be thought of, structurally, as a special purpose portable computer with application specific user interfaces.* ". Note: In Sloane, "portable computer" corresponds to any of a personal digital assistant, a laptop computer, handheld computer, palmtop computer as claimed. Also see col.11, lines 8-25 for cellular telephone, "*As an alternative, the apparatus 20 can be contoured much like a telephone handset and appropriate placement of the microphone and speaker 226 and 228 as shown can enable private audible communications in that fashion.....* ". Note: the apparatus as analyzed above is mobile and therefore a mobile telephone will can correspond to a cellular phone ) .

**Regarding claim 7**, Sloane in view of Sloane II as applied to claim 1 discloses a product purchase decision-making device as analyzed above. Sloane also discloses that the said means for inputting product identification information comprises a bar code



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scanner (see at least col. 9, lines 56-63, " *These buttons can be used, for example, in conjunction with a bar code scanner 218 ....* ", and col.14, lines 27-32, " *As the shopper is moving through the shopping venue and browsing products, the shopper can use **the scanner to read the Universal Product Code (UPC) bar codes of products they are interested in, or can scan shelf labels having the product UPC bar code, and request information on these or similar or associated products*** " ).

**Regarding claim 8**, Sloane in view of Sloane II as applied to claim 1 discloses a product purchase decision-making device as analyzed above. Sloane also discloses that the device comprises a telephone handset (see at least col.11, lines 8-25, " *As an alternative, the apparatus 20 can be contoured **much like a telephone handset** and appropriate placement of the microphone and speaker 226 and 228 as shown can enable private audible communications in that fashion.....* "). It would be inherent for the device, when it includes a telephone handset to include alphanumeric keyboard means for inputting product identification information.

2.2. Claims 2, 4, 9, 11, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane in view of Sloane II and further in view of Davey, Tom ; " Improving access "; Information week ; Manhasset: Apr 21, 1997; Iss 627; page 73, 1 pg, extracted on Internet from <http://proquest.umi.com> on 12/9/03, hereinafter, referred to as Davey.

**Regarding claim 2**, Sloane in view of Sloane II as applied to claim1 discloses a product purchase decision-making device comprising indicator lights as means for

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indicating to a user a product purchase decision, as analyzed above. Sloane in view of Sloane II as applied to claim1 also discloses the use of indicator lights to indicate a warning, product discounts and promotions. Such uses correspond to the means for indicating to a user a product purchase decision, as claimed, because a warning light indicator would stop the user from buying, a product discount indicator light would motivate the buyer to go ahead with the buying decision and a promotion indicator light may caution the buyer that a new product is being promoted and as such he may try to know more about it.

Sloane in view of Sloane II as applied to claim1 does not expressly disclose: a green positive indicating button; a red negative indicating button; and a yellow caution indicating button. However, Davey , in the field of analogous art , discloses a green positive indicating button; a red negative indicating button; and a yellow caution indicating button (see at least page 1, " *The dashboard simulates traffic lights, with green, yellow, and red indicators to depict the responsiveness of each link in an Internet connection ....* ". In Davey, the green, the red and the yellow indicator lights are used to simulate the traffic signs, wherein green signifies the positive indication that the Web site is working alright and can be accessed, the red signifies not to access the Web sight as it is not working and the yellow signifies a caution that the web sight is slow. The colored indicator lights in Davey correspond to the colored buttons as claimed.).

In view of Davey, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Sloane in view of Sloane II as applied to claim 1 to incorporate the feature of simulating traffic lights,

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with green, red and yellow indicators/buttons. Doing so would solve the analogous problem of indicating and conveying different decisions rapidly to the user such as using green light for a product discount and motivating the buyer to go ahead with the buying decision, a red light for a warning and to stop the user from buying, and a yellow light as promotion indicator and cautioning the buyer that a new product is being promoted and as such he may try to know more about it.).

**Regarding claim 4**, its limitations are same as claim 2 and are therefore analyzed and rejected as being unpatentable over Sloane in view of Sloane II and further in view of Davey on the basis of same rational.

**Regarding claim 9**, Sloane in view of Sloane II as applied to claim 7 discloses a product purchase decision making device comprising a bar code scanner and indicator lights as means for indicating to a user a product purchase decision, as analyzed above. The limitation that, indicating means comprises a green positive indicating button; a red negative indicating button; and a yellow caution indicating button are already covered and analyzed in claim 2 above and therefore claim 9 is rejected as being unpatentable over Sloane in view of Sloane II and further in view of Davey on the basis of same rational.

**Regarding claim 11**, its limitations are same as claim 9 and are therefore analyzed and rejected as being unpatentable over Sloane in view of Sloane II and further in view of Davey on the basis of same rational.

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**R** **garding claim 12**, Sloane in view of Sloane II as applied to claim 8 discloses a product purchase decision making device comprising an alphanumeric keyboard and indicator lights as means for indicating to a user a product purchase decision, as analyzed above. The limitation that, indicating means comprises a green positive indicating button; a red negative indicating button; and a yellow caution indicating button are already covered and analyzed in claim 2 above and therefore claim 12 is rejected as being unpatentable over Sloane in view of Sloane II and further in view of Davey on the basis of same rational.

**Regarding claim 14**, its limitations are same as claim 12 and are therefore analyzed and rejected as being unpatentable over Sloane in view of Sloane II and further in view of Davey on the basis of same rational.

2.3. Claims 3, 10 and 13 are rejected under 35 U.S.C. 103(a) as being obvious over Sloane in view of Sloane II and further in view of Official Notice.

**Regarding claim 3**, Sloane in view of Sloane II as applied to claim1 discloses a product purchase decision making device comprising indicator lights as means for indicating to a user a product purchase decision, as analyzed above. Sloane in view of Sloane II as applied to claim1 also discloses the use of indicator lights to indicate a warning, product discounts and promotions correspond to the means for indicating to a

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user a product purchase decision, as claimed, because a warning light indicator would stop the user from buying, a product discount indicator light would motivate the buyer to go ahead with the buying decision and a promotion indicator light may caution the buyer that a new product is being promoted and as such he may try to know more about it. Note: the indicator lights in Sloane in view of Sloane II as applied to claim 1 correspond to indicator buttons as claimed.

Sloane in view of Sloane II as applied to claim 1 does not expressly disclose: a circular positive indicating button/light; an octagonal negative indicating button/light; and a triangular caution indicating button/light.

Official Notice is taken of both the concept and benefits of the old and well-known traffic signaling system using different shapes and colors to indicate and convey decisions to the mind of the users when driving and using the road. Traffic signaling system uses octagonal shape for a "stop sign", triangular shapes to indicate caution, such as school area, slippery roads, yield sign, etc., and a round green signal indicating the path is clear. In view of the Official Notice, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Sloane in view of Sloane II as applied to claim 1 to incorporate the old and well-known features of different shaped traffic signs, such as octagon, triangle and circle because it would solve the analogous problem of indicating and conveying different decisions rapidly to the user such as using circular green indicator light for a product discount and motivating the buyer to go ahead with the buying decision, an octagonal shaped red indicator light for a warning and to stop the user from buying, and a triangular shaped

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yellow light as promotion indicator and cautioning the buyer that a new product is being promoted and as such he may try to know more about it.).

**Regarding claim 10**, Sloane in view of Sloane II as applied to claim 7 discloses a product purchase decision making device comprising a bar code scanner and indicator lights as means for indicating to a user a product purchase decision, as analyzed above. The limitation that, indicating means comprises a circular positive indicating button; an octagonal negative indicating button; and a triangular caution indicating button are already covered and analyzed in claim 3 above and therefore claim 10 is rejected as obvious over Sloane in view of Sloane II and further in view of Official Notice on the basis of same rational.

**Regarding claim 13**, Sloane in view of Sloane II as applied to claim 8 discloses a product purchase decision making device comprising an alphanumeric keyboard and indicator lights as means for indicating to a user a product purchase decision, as analyzed above. The limitation that, indicating means comprises a circular positive indicating button; an octagonal negative indicating button; and a triangular caution indicating button are already covered and analyzed in claim 3 above and therefore claim 10 is rejected as obvious over Sloane in view of Sloane II and further in view of Official Notice on the basis of same rational

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) US Patent 5,796,398 to Zimmer discloses a method and an article for displaying graphical images/icons on a computer monitor of different shapes and sizes, colors, to convey information rapidly to the human mind by seeing the signs (see at least col.1, lines 24-40, col.2, line 50-col.2, line 15).

(ii) US Patent 6,595,417 to O'Hagan et al. discloses an electronic shopping system wherein a customer uses a portable computer to receive information via network from remote sources and the information is displayed on a LCD screen (see at least col.3, line 21-col.4, line 8, and col.11, lines 25-35).

(iii) WO 99/08238 to Maes et al. discloses an electronic shopping system and method wherein a customer uses a PDA to receive information via network from remote sources and the information is displayed on a screen (see at least abstract).

(iv) EP 0 781 061 A2 to Isenberg et al. discloses an electronic communication system and method wherein a customer uses a portable device to transmit and receive information via network from remote sources (see at least abstract).

(v) Press release ; " There's a Monster on the loose-and It's Watching Over All My Web Sites "; PR Newswire ; New York: June 8, 1999; page ; pg.1; extracted on Internet from <http://proquest.umi.com> on 12/9/03 discloses use of red, yellow and green indicators to tell the status of each Web site being accessed by the users..

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(vi) Booker, Ellis; Think-Tank Vision: More "Comfortable " Connectivity—Please Sit Down In My Network"; InternetWeek ; Manhasset: Sep 13, 1999; Iss 780; pg.PG.1; extracted on Internet from <http://proquest.umi.com> on 12/9/03 discloses the use of PDA in remote shopping and receiving information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Yogesh C Garg  
Examiner  
Art Unit 3625

YCG

December 15, 2003